

I cannot, looking to the entire frame and texture of this will, bring myself to think that the testator intended during the life of his wife, to give to his son a mere indefinite claim upon her for care and maintenance. Certain it is, that after the death of his wife, he did not design to confine his son to this indefinite kind of provision, for the will expressly directs, that upon her death, the annuity of six hundred dollars shall commence to be paid to him, half yearly, from the day of her death. And it may well be remarked, if the testator thought his son capable of receiving and properly applying this annuity, there can be no good reason for supposing that he considered him incapable of making a proper use of the income of the trust estate. The will, it may be observed, does not say one word about accumulations of the trust estate. The language is, that "his son, should he feel himself competent and so disposed, may, by his last will, made according to law, give all or any portion of the property which he may so as aforesaid take under this my last will unto my daughter, his sister," &c. If he had intended that the property so given his son with its accumulations should be so disposed of by the latter, is it not presumable he would have said so in terms?

My opinion is, that the testator intended to trust his son with the receipt and use of the income of his estate, and that he was not to be dependent entirely on his mother for the means of gratifying his wants and his wishes. His father says, "he intends to assure his son an ample and independent support as effectually as the law will allow," and I am at a loss to see how this intention, so emphatically expressed, can be gratified, if for every dollar he may require for any purpose he must apply to others.

The answer of William G. Bland, to the petition of the trustee, denies that he is incapable of taking care of his income, and I can find no evidence in these proceedings to outweigh this denial. There is nothing certainly to show that the mental condition of the son has become worse since his father's death, and as has been already remarked, his father unquestionably thought him capable of taking care of his annuity, for he ex-